

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
Richmond Division

KATHY ADKINS, *et al.*,

Plaintiff,

v.

Civil Action No. 3:11cv334

ENCORE CAPITAL GROUP, INC., *et al.*

Defendants.

**DEFENDANTS' MEMORANDUM IN SUPPORT OF MOTION FOR REASSIGNMENT
OF ACTION TO DISTRICT JUDGE JAMES R. SPENCER**

Defendants, Encore Capital Group, Inc., Midland Funding, LLC and Midland Credit Management, Inc. (collectively, "Midland"), by counsel, for their memorandum in support of their motion to reassign this matter to United States District Judge James R. Spencer, state as follows:

Well prior to the Initial Pretrial Conference in this action, counsel for Midland and counsel for the Plaintiffs had extensive discussions regarding consent to the use of a magistrate judge in this action. These discussions occurred in the context of *Gilbert James v. Encore Capital Group, Inc, et al.*, Civil Action No. 3:11cv221(REP), and the substance of these discussions is memorialized in a series of filings in that case, including Docket Nos. 28, 29. The outcome of such filings was that the parties were unable to agree to magistrate jurisdiction in either *James* or in this action. Therefore, Midland had decided not to submit to magistrate's jurisdiction, and the undersigned counsel was never authorized to consent on behalf of Midland to magistrate jurisdiction.

Due in part to this sequence of events, undersigned counsel believed that they had provided notice to the Court of Midland's objection to magistrate judge jurisdiction in this case

and only found out to the contrary shortly before the Initial Pretrial Conference on September 22, 2011. Counsel for Midland then explained the above circumstances to Magistrate Judge Dennis W. Dohnal at the Initial Pretrial Conference and declined to sign the proposed written form for magistrate jurisdiction providing Midland's explicit consent. By Order, however, this action was then reassigned to Hon. Dennis W. Dohnal. (Docket No. 22).

Midland therefore requests that this action be reassigned to United States District Judge James R. Spencer for all further purposes in light of the fact that they do not consent to the jurisdiction of a magistrate judge for this case. Counsel for Midland apologizes for any confusion associated with this issue.

Counsel for Midland certifies that he has conferred in good faith with counsel for the Plaintiffs regarding this motion.

CONCLUSION

WHEREFORE, Defendants, Encore Capital Group, Inc., Midland Funding, LLC and Midland Credit Management, Inc., by counsel, respectfully request that the Court enter an Order: (1) granting their Motion for Reassignment of Action to District Judge James R. Spencer; (2) reassigning this matter to Hon. James R. Spencer for all further purposes; and (3) granting Defendants such further relief that the Court deems appropriate.

**ENCORE CAPITAL GROUP, INC.,
MIDLAND FUNDING, LLC and
MIDLAND CREDIT MANAGEMENT, INC.**

By: /s/David N. Anthony
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CERTIFICATE OF SERVICE

I hereby certify that on the 11th day of October 2011, I filed a true and correct copy of the foregoing on the Court's Electronic Case Filing System, which will send a notice of electronic filing to:

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